



**HELEN F. DALTON & ASSOCIATES, P.C.**  
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March 25, 2021

**Via ECF**

Honorable Judge Katherine Polk Failla  
United States District Court  
Southern District of New York  
40 Foley Square, Courtroom 618  
New York, New York 10007

**MEMO ENDORSED**

Re: **Feliciano Diaz Leon et. al. v. Toasties One Corp et. al.**  
**20-CV-6100 (KPF)**

Dear Judge Failla:

We represent the Plaintiffs in the above-referenced matter and we respectfully submit this letter in response to Your Honor's March 15, 2021 Order to Show Cause why this matter should not be dismissed due to failure to prosecute (Dkt. #14). This letter also serves to apprise the Court of the status of this matter to date.

As a preliminary matter, our office expresses an apology to the Court for Plaintiffs not moving for default judgment against Defendants by March 5, 2021 after requesting an extension of the deadline to do so (Dkt. #11), which request the Court granted (Dkt. #12).

Our office was notified of the passing of Plaintiff Victorio Guzman ("Guzman") on January 5, 2021 by Guzman's brother, and we promptly informed the Court and requested the extension of time. On January 7, 2021 we filed the Suggestion of Death of Guzman (Dkt #13) and conveyed that we were expecting Guzman's family to procure a substitution in Guzman's stead to pursue his claims.

Since that time, the Guzman family has hired an attorney [Preet Gill, Esq.] with whom our office has been in close contact. She informed us that she has been diligently working on the relevant probate issues, including, *inter alia*, the procurement of a substitution for Guzman, and the appointment of an administrator and/or executor for Guzman's legal matters and his estate. During this time, we had been patiently following up with Attorney Gill and with the Guzman family in anticipation of completion of these probate matters so that Guzman could be substituted and benefit from a default judgment order in this matter. We were waiting for the substitution to occur, but Attorney Gill has told us that she anticipates requiring sixty (60) days for completion of these probate matters, if no unforeseeable surprises arise.

Therefore, in light of the expected time it will take, Plaintiffs respectfully request leave of fourteen (14) days from the date of this letter or Your Honor's endorsement thereof, to move for default judgment against Defendants, should Defendants still not appear in this matter by then.

We thank Your Honor for her consideration in this matter, we apologize for any delays of this litigation on account of these unusual and unfortunate circumstances, and we remain available to provide any additional information.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Roman Avshalumov, Esq.

CC: [Failla\\_NYSDChambers@nysd.uscourts.gov](mailto:Failla_NYSDChambers@nysd.uscourts.gov) (*Via Electronic mail*)

To Defendants: (*Via U.S. Mail*)

Application GRANTED. Plaintiffs may move for default judgment against Defendants on or before **April 9, 2021**.

Dated: March 26, 2021  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE